



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED

NOV 01 2005

OFFICE OF PETITIONS

In re Application of :
Patel, et al. : DECISION ON PETITION
Application No. 10/696,821 :
Filed: October 30, 2003 :
Docket No.: 038190/270418 :

This is a decision on the petition to revive under 37 CFR 1.137(a), filed October 12, 2005. This matter is also being treated *sua sponte* under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

This application was held abandoned June 26, 2005 for failure to timely response to the non-final Office action mailed March 25, 2005. The non-final Office action set a three month shortened statutory period of time for reply. A response and a petition for extension of time were submitted September 28, 2005. Notice of Abandonment was mailed September 30, 2005.

DECISION UNDER 37 CFR 1.181

Petitioner asserts that a response to the non-final Office action was timely submitted September 26, 2005 and that the response bore a certificate of mailing in accordance with 37 CFR 1.8.

A review of the application file reveals that a response to the non-final Office action was received September 28, 2005 and that the response did bear a certificate of mailing in accordance with 37 CFR 1.8. Accordingly, the response will be considered timely as it complies with the requirements of 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously submitted correspondence with certificate of transmission thereon has been supplied, and (3) statements attesting to the previous timely transmission have been submitted.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

DECISION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

In view of the withdrawal of abandonment, the petition to revive under 37 CFR 1.137(a) is hereby **DISMISSED AS MOOT**.

A refund of the previously submitted petition fee has been requested from the Finance Office, Refund Section.

The application file is being forwarded to the Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions